

**Alcohol and Tobacco Tax and Trade Bureau, Treasury****§ 46.233**

tax. You must prepare a separate list of these items. You cannot include as unmerchandise any items that may be held because of poor market demand or to reduce your inventory.

**§ 46.212 Cigarettes in vending machines.**

You do not have to inventory cigarettes held in a vending machine for retail sale, provided:

- (a) The vending machine holding the cigarettes is placed at a location where retail sales occur, and
- (b) The cigarettes are ready to be dispensed by a consumer.

**§ 46.213 Cigarettes marked “not for sale” or “complimentary”.**

Cigarettes marked “not for sale” or “complimentary” that are part of a

sale (for example, buy two packs and get one pack free) are subject to the floor stocks tax and must be included in the book or record inventory as required by §§ 46.205 and 46.206. Cigarettes that are marked “not for sale” or “complimentary” and are intended to be given away and not in conjunction with any sale are not subject to the floor stocks tax.

**COMPUTE TAX LIABILITY****§ 46.221 Determine amount of tax due.**

After you have taken your inventory, apply the applicable tax rate for each type of cigarette using the table in § 46.222. Multiply the amount of each type of cigarette by the applicable tax rate.

**§ 46.222 Floor stocks tax rates.**

Type or kind	January 1, 2000	January 1, 2002
Small Cigarettes (3 pounds or less per 1,000) .....	\$5 per 1,000 or 10 cents per 20 .....	\$2.50 per 1,000 or 5 cents per 20
Large Cigarettes (more than 3 pounds per 1,000)	\$10.50 per 1,000 or 21 cents per 20	\$5.25 per 1,000 or 10.5 cents per 20
Special rule: For large cigarettes over 6½ inches long determine the rate for each length. Multiply the rate prescribed for small cigarettes by the whole number that represents the addition of each 2¾ inches and any fraction of the length, as one (1)		

**§ 46.223 Apply tax credit.**

You are allowed a credit against your floor stocks tax of up to \$500. However, controlled groups are eligible for only one credit for the entire group. The credit may be divided equally among the members or apportioned in any other manner agreeable to the members.

**FILING REQUIREMENTS****§ 46.231 How to obtain a tax return.**

Form 5000.28T, Floor Stocks Tax Return for Cigarettes, is available for printing through the TTB Web site (<http://www.ttb.gov>) or by mailing a request to the Alcohol and Tobacco Tax and Trade Bureau, National Revenue Center, 550 Main Street, Room 1516, Cincinnati, OH 45202.

[T. D. TTB-44, 71 FR 16956, Apr. 4, 2006]

**§ 46.232 Prepare tax return.**

If your tax liability is zero, you do not have to complete or file a tax return. Otherwise, complete and file the floor stocks tax return in accordance with the instructions for the form.

**§ 46.233 How to pay.**

(a) *Check or money order.* Your payment must be in the form of a check or money order and sent with Form 5000.28T unless you are required to file by electronic fund transfer as described in paragraph (b) of this section.

(b) *Electronic fund transfer.* If you pay any other excise taxes collected by TTB by electronic fund transfer, then you must also send your payment for this floor stocks tax by an electronic fund transfer. Publication 5000.10, Payment by Electronic Funds Transfer, specifies how to make an electronic fund transfer. Publication 5000.10 is